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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/713,829

11/14/2003

Christopher Tararuj

7059

33986 7590 01/12/2007  
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EXAMINER

KENNEDY, SHARON E

ART UNIT

PAPER NUMBER

1615

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/12/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/713,829	<b>Applicant(s)</b> TARARUJ, CHRISTOPHER	
	<b>Examiner</b> Sharon E. Kennedy	<b>Art Unit</b> 1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s).

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                               | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                      | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

### **DETAILED ACTION**

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action or the MPEP.

#### ***Information Disclosure Statement***

The prior art listed in the specification has been considered. If applicant wants a listing of that prior art to appear on the face of any patent issuing from this application, applicant should submit a PTO Form-1449 with a listing thereof. Copies of the prior art are not necessary.

#### ***Claim Rejections - 35 USC § 112***

Claims 1-14 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

Applicant is advised to call the examiner at the number listed below for assistance in drafting new claims.

***Claim Rejections - 35 USC § 102***

Claims 1-14 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Charbonneau, US 4,988,557. Charbonneau discloses a fragrance sampling device containing microcapsules between two surfaces to which a "discontinuous binder" has been applied. See the Abstract. The discontinuous binder may be styrene-butadiene (column 2, line 57) which has been applied in an amount of 10-35% by weight of binder (column 2, line 63). The remainder is pigment. The examiner takes the position that this language anticipates the claimed "polystyrene coated substrate" of claim 1.

Regarding the discussion of bond strength of the microcapsule, Charbonneau discloses this feature throughout the patent. See column 3, lines 1-5, concerning a "balance of peel force and capsule rupture." Note also column 3, lines 50-53. Charbonneau states, "The tensile rupture strength of the capsules must be such that the cohesive failure of the adhesive results in capsule breakage." Note also that the adhesive may be applied to that some microcapsules break while others are left unbroken to permit the user to save some of the fragrance for a later time. See column 4, lines 23-40. The capsule sizes are disclosed in column 3, lines 53+. Charbonneau does not disclose the use of gelatin-based microcapsules, however, applicant has not claimed this feature.

***Allowable Subject Matter***

The following claims are drafted by the examiner and considered to distinguish patentably over the art of record in this application. This is presented to applicant for consideration:

Claim 15 (New): A pull apart device comprising:

a top portion having an inside surface comprising of polystyrene, a polystyrene blend or a polystyrene coated substrate,

a bottom portion having an inside surface comprising polystyrene, a polystyrene blend or a polystyrene coated substrate; and

a gelatin-based microcapsule layer deposited by conventional means onto an inside surface of either the top or bottom portion, wherein the microcapsules adhere to the bottom and top surfaces such that the capsule coating bonds the overlying surfaces together, the bond between the top and bottom surfaces can be broken by separating the plies, whereby the microcapsules are substantially compromised and release a material contained therein.

Claim 16 (New): A pull apart device according to claim 15, wherein the microcapsule coating contains other additives.

Claim 17 (New): A pull apart device according to claim 16, wherein the additives comprise adhesives and viscosifiers.

Claim 18 (New): A pull apart device according to claim 16, produced in the form of a pressure sensitive backed label which may be affixed to any printed matter, packaging or any delivery vehicle.

Claim 19 (New): A pull apart device according to claim 16, distributed in the form of a laminated card manufactured in a single or multiple operation with or without the need for subsequent affixing to another delivery vehicle.

Claim 20 (New): A pull apart device according to claim 18, wherein the polystyrene surface is over-laminated with a polymeric, paper or composite stock including metallized films, holographic films or preprinted stock.

Claim 21 (New): A pull apart device according to claim 19 wherein a single continuous polystyrene substrate is folded over onto itself before or after laminating to another substrate such as paper or film.

Claim 22 (New): A pull apart device according to claim 16, wherein the microcapsules contain a fragrance which is released upon separation of the overlying plies.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The patent to Biannavola, US 5,248,537 discloses a layer 22 of styrene-acrylic emulsion polymer (column 3, line 23) to be folded over along fold 40 to cover

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microcapsule adhesive layer 26, which is applied as a slurry over a barrier coating (column 3, lines 37-40). See especially Figure 1.

The patent to Zolotarsky et al., US 6,723,671, discloses a fragrance layer 6, support layer 1, adhesive layer 4, release coating 7 and a release layer 5 which may be polystyrene (column 6, line 14). The encapsulating substance may be gelatin (column 6, line 34). The polystyrene layer and the encapsulating layer are at opposing sides of the laminate.

The patent to Paciorek et al., US 3,685,734, discloses a cover 13, substrate 11, and fragrance layer 12 (see "perfume" column 1, line 68) which is described as a "volatile organic substance" (column 1, line 60) which may contain a plasticizer (column 2, lines 14-16) in the amount of 80-20% (column 2, line 31) of styrenes (column 2, line 51).

The patent to Green land, US 5,782,060, discloses two plies 12 and 14 which may comprise polystyrene (column 3, line 15) functioning as an "inner polymeric thermoplastic sealant layer" (column 3, lines 8-9). Product sample 20 is not a microcapsule but a gel, liquid (column 1, line 28) or lotion (column 5, line 16). There is no disclosure of a gelatin microcapsule.

The patent to Vernardakis et al., US 6,454,842 discloses a scented ink composition which may be a styrene-maleic anhydride and an oil-based fragrance. The resin "stabilizes the microdroplets of the oil-based fragrance by coating the microdroplets." (See the Abstract, see also column 7, lines 8-10.) The microdroplets

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have a diameter of from about 0.1 to about 1.0 micrometers. "Gelatin" is disclosed as a microcapsule wall in the Background section, column 1, line 24.

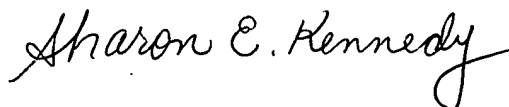
The patent to Tsaur et al., US 5,246,603, discloses a tumbler drier sheet containing microcapsule fragrance releasers.

### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon E. Kennedy whose telephone number is 571/272-4948. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward, can be reached on 571/272-8373.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sharon E. Kennedy  
Primary Examiner  
Art Unit 1615